UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,617	03/15/2004	Koji Tsukimori	SON-2967	8418

23353 7590 02/01/2011

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER	
ZAMAN, FAISAL M	

ART UNIT	PAPER NUMBER
2111	

MAIL DATE	DELIVERY MODE
02/01/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KOJI TSUKIMORI and KEIJI HIRAI

Appeal 2009-015086
Application 10/799,617[1]
Technology Center 2100

Before JOSEPH L. DIXON, JAY P. LUCAS, and CAROLYN D. THOMAS, *Administrative Patent Judges*.

LUCAS, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING[2]

---

[1] Application filed March 15, 2004. Appellants claim the benefit under 35 U.S.C. § 119 of Japan application P2003-102165 filed April 4, 2003. The real party in interest is Sony Corporation of Tokyo, Japan.

[2] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Pursuant to 37 C.F.R. § 41.79, Appellants have filed a Request for Rehearing alleging a misapprehension or oversight by this Board in a Decision on Appeal mailed May 18, 2010. In that Decision the Board affirmed the Examiner's rejection of claims 9 to 36.

Appellants' invention relates to an editing system in which frame synchronization (timing) signals are produced in a timing notice apparatus attached to a computer, rather than in the computer itself (Spec. 1, middle; Spec. 2, middle). In the words of Appellants:

> An editing system in which a personal computer is easily configured as an editing apparatus that performs editing processing in synchronization with predetermined timing. According to the invention, a personal computer 2 transmits an acquisition command C1 to a timing notice apparatus 4 over a USB cable 3, as a result, the personal computer 2 receives a timing notice signal S2 transmitted from the timing notice apparatus 4 under frame timing over the USB cable 3. Thus, it becomes possible to notify the personal computer 2 of the frame timing as reception timing of the timing notice signal S2 by connecting the timing notice apparatus 4 to the personal computer 2 over the USB cable 3 without the need of troublesome works such as installing a PCI board in a main body of the personal computer 2, thereby realizing an editing system 1 in which the personal computer 2 is easily configured as an editing apparatus that performs editing processing in synchronization with predetermined timing.

(Abstract, Spec. 29).

Claim 9 is exemplary, and is reproduced below:

> 9. An editing system comprising:
>
> a computer having a computer interface unit; said computer interface unit being adapted to transmit an acquisition command and to receive a timing notice signal; and
>
> a timing notice apparatus having a controller and a timing generation unit, said controller being adapted to receive said acquisition command and to transmit said timing notice signal, said timing generation unit being adapted to extract frame synchronization information from a reference signal,
>
> wherein said frame synchronization information extracted from said reference signal is said timing notice signal, and
>
> wherein said timing notice apparatus transmits said timing notice signal upon receipt of said acquisition command, said timing notice signal being transmitted according to a predetermined timing of image data

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Iizuka	US 5,680,596	Oct. 21, 1997

Applicant's Admitted Prior Art ("AAPA")

REJECTION

The Board affirmed the following rejection:

Claims 9 to 36 stand rejected under 35 U.S.C. § 103(a) for being obvious over AAPA in view of Iizuka.

DISCUSSION

Appellants have expressed in the Request for Rehearing a number of contentions of misapprehension by the Board.

Appellants first contend that the reference Iizuka "fails to disclose, teach or suggest Frame Synchronization Information being *extracted* from a reference signal." (RR 2, bottom). Appellants argue that the REF signal in Iizuka has no tuning data stored within it, and thus Iizka cannot extract tuning data from that signal.

In the Decision on Appeal we expressed our conclusion on this issue at a higher level, and thus it is appropriate that our reasoning be more fully explained. The referenced section in Iizuka concerns setting a speed for data to be sent from a computer 1 to a printer 2 at the right speed and with proper waiting times W1-W3 so that the printer can absorb the information from the much faster computer. (*See* col. 6, ll. 28 to 38.) A tuning control process sets this proper speed, with signals being sent back and forth to establish the proper speed (col. 5, bottom to col. 6, top).

In representative claim 9, Appellants state in relevant part "said timing generation unit being adapted to extract frame synchronization information from a reference signal." Appellants have chosen the broad term "frame synchronization information" in their claim language. The Examiner and the Board read that term on tuning data used to set the waiting

time for transmission of data to the printer. Appellants then argue that there is no tuning data in the reference data signals REF (RR 7, middle). The data signals REF in Iizuka are used with strobe signals /STB and DATA signals for detecting changes to bit patterns useful for setting the timing of the communication (col. 5, ll. 10 to 40). The claim does not require that frame synchronization information be extracted from only a reference signal. A broad but reasonable reading of the limitation includes synchronization information being extracted by a process involving signals including the reference signal and other signals. We find that the claim limitation would have been obvious over Iizuka's teachings of deriving synchronization information for tuning the data transmission from the REF signal and the DATA and Strobe signal analysis. Appellants assert that the claim requires that the frame synchronization information should be read as being stored within the reference signal (RR 11, top). Appellants could have chosen to express their claim in that manner, but we decline to read that narrower understanding into the claim without the words being present.

Appellants further argue that Iizuka fails to teach tuning data being transmitted according to a predetermined timing of image data as claimed (RR 12, top). We are not certain that the Appellants actually argued that point in the Brief as required, as the allegation was simply presented without substantial reasoning in the Brief. (*See* Brief 14, top.) However, to amplify that point, now that it is raised, we found that "transmitted according to a predetermined timing" was a broad expression of timing, and that the tuning data in Iizuka being sent subsequent to the tuning data request command was sufficiently "predetermined" to fit the requirements of the claim. Appellants' suggestion that we read into "predetermined" the phrase "timing

indicative of temporal beginnings of first and second fields corresponding to a frame frequency of image data to be edited" is noted, but totally rejected as unreasonably limiting the common meaning of the term (RR 14, middle). A specific definition of "predetermined" to that effect has not be found in Appellants' Specification.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that the Decision on Appeal of May 18, 2010 will stand, augmented by the analysis presented above.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REQUEST FOR REHEARING DENIED

peb

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036